

TEMPORARY MIGRATION OF AGRICULTURAL WORKERS

*Exchange of notes at San José May 22 and 29, 1944, with contract signed
May 20, 1944*

Entered into force May 29, 1944

Obsolete

59 Stat. 1275; Executive Agreement Series 451

The American Ambassador to the Secretary of State for Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA
*San José, Costa Rica
May 22, 1944*

No. 257

EXCELLENCY:

I have the honor to refer to my note No. 250 of May 15, 1944 and to Your Excellency's courteous reply No. 950* B of the same date, relative to the mission of Mr. Hiram S. Phillips, principal employment service analyst of the War Manpower Commission, who was desirous of concluding a contract with the Government of Costa Rica for the furnishing of a supply of laborers from this country for temporary employment in the timber and lumber and food processing industries in the United States, as well as the actual signing of the contract by His Excellency, Teodoro Picado, President of the Republic, and Señor Hernán Bejarano Rivera, Under Secretary of State for Labor and Social Welfare, on behalf of the Government of Costa Rica and Mr. Hiram S. Phillips on behalf of the War Manpower Commission of the United States yesterday morning.

In this connection I beg to formalize, through the exchange of notes with Your Excellency's Ministry as required in Paragraph Three, the general provisions of this contract.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

FAY ALLEN DES PORTES

His Excellency

Señor don JULIO ACOSTA

Secretary of State for Foreign Affairs

San José, Costa Rica

The Secretary of State for Foreign Affairs to the American Ambassador

[TRANSLATION]

REPUBLIC OF COSTA RICA
MINISTRY OF FOREIGN AFFAIRS

No. 1124* B

SAN JOSÉ, May 29, 1944

MR. AMBASSADOR:

In view of the provision in the third paragraph of the agreement concluded May 20 last in the city of San José between the Government of Costa Rica and that of the United States of America for the temporary furnishing of Costa Rican laborers to this latter country, and in which there appear as representatives the assistant Secretary of Labor and Social Welfare, Lic. Hernán Bejarano Rivera, on the part of Costa Rica, and Mr. Hiram S. Phillips, on the part of the Chairman of the War Manpower Commission of the United States of America, I have the honor to transmit to Your Excellency the present exchange note as ratification of that agreement on the part of the Government of Costa Rica.

The document spoken of in the foregoing paragraph reads thus:

[For text of contract, see below.]

I avail myself of the opportunity to renew to Your Excellency the assurance of my highest and most distinguished consideration.

JULIO ACOSTA

His Excellency,

FAY ALLEN DES PORTES,

*Ambassador Extraordinary and Plenipotentiary
of the United States of America,
San Jose.*

CONTRACT

Between us, Hernán Bejarano Rivera, Under Secretary of State for Labor and Social Welfare for the Government of the Republic of Costa Rica, duly authorized for the purpose by the President of the Republic and Hiram S. Phillips, Representative of the Chairman of the War Manpower Commission of the United States,

WHEREAS, in the furtherance of the common war effort of the United Nations, the Government of the United States of America and the Government of Costa Rica are desirous of facilitating the temporary migration of workers from Costa Rica to the United States of America for employment within the continental limits of the United States with industries and services essential to the preservation, marketing, or distribution of agricultural products, including the timber and lumber industries;

NOW, THEREFORE, the following general provisions are suggested and this understanding may be formalized by an exchange of notes between the Ministry of Foreign Affairs of the Republic of Costa Rica and the Embassy of the United States of America in Costa Rica:

I. *General Provisions*

A. The Government of Costa Rica will use its best efforts to facilitate the recruitment of workers of Costa Rica nationality, the establishment of reception centers for the assembling of said workers where needed, and the temporary migration of said workers to the United States of America in accordance with arrangements made through the Chairman of the War Manpower Commission or his authorized representative.

B. Workers who enter the United States under this agreement shall not be required to present themselves for or submit to registration under the Selective Training and Service Act of 1940.¹

C. Workers who enter the United States under this agreement shall not suffer discriminatory acts of any kind in accordance with Executive Orders No. 8802 and No. 9346 issued at the White House on June 25, 1941 and May 27, 1943 respectively.

D. Workers who enter the United States under this agreement shall not be employed to displace other workers or for the purpose of reducing rates of pay or other standards previously established.

E. Either Government shall have the right to renounce this agreement upon ninety days' notification to the other Government in advance thereof; provided that notwithstanding the termination of the agreement in the manner thus provided, all workers employed under this agreement prior to its being so terminated shall continue to enjoy all the benefits conferred by this agreement until such time as they are returned to Costa Rica.

F. There will be full cooperation between the Governments of the United States and Costa Rica and between their respective agencies. The Government of the United States shall submit periodic reports to the Government of Costa Rica with respect to the working and living conditions of the workers brought to the United States under this agreement.

G. The effectuation of this agreement shall be dependent on the continued need for workers in the above specified industries and services in the United States, the availability of transportation to the United States, and the continued availability of workers in Costa Rica for temporary migration to the United States.

H. The Governments of the United States of America and of Costa Rica, signatories to the present agreement, shall not enter upon performance of this agreement until a mutual understanding has been reached between them with respect to the life insurance of the Costa Rica workers in transit to and from the United States.

¹ 54 Stat. 885.

II. *Procedure*

A. CONTRACTS

1. Contracts to effectuate the purpose and principles of this agreement in accordance with the legal requirements of the respective Governments, including the provisions of the Costa Rica Labor Code, shall be entered into between the employer, the worker, and the Government of the United States of America, acting through the Chairman of the War Manpower Commission or his authorized representative. The Government of the United States, acting through the Chairman of the War Manpower Commission or his authorized representative, guarantees the performance on the part of the employer of the terms and conditions of this agreement.

2. The word "employer" as used herein shall be understood to mean the owner or operator of an enterprise, in the United States of America essential to the preservation, marketing, or distribution of agricultural products, including the timber and lumber industries, in which the worker will be employed.

3. The word "worker" as used herein shall be understood to mean a national of Costa Rica entering the United States of America under this agreement for employment in industries or services essential to the preservation, marketing, or distribution of agricultural products, including the timber and lumber industries.

4. Contracts entered into between the employers and the workers shall be written in the Spanish and English languages.

B. ADMISSION OF WORKERS INTO THE UNITED STATES

1. The United States Public Health Service shall supervise the necessary health examinations of the workers to determine whether such workers meet the physical standards requisite for admission to the United States and whether such workers are in physical condition to perform the type of labor for which they are being employed. The health examinations shall be administered at the place of selection or any other place in Costa Rica mutually agreed upon and at no cost to the worker. The Costa Rica health authorities shall assist with such facilities and services for such examinations as may be available.

2. Admission shall accord with regulations of the United States Government acting through the Immigration and Naturalization Service of the Department of Justice and the Visa Division of the Department of State.

III. *Conditions Under Which Workers Shall be Contracted*

A. TRANSPORTATION

1. Transportation of the worker (including adequate subsistence during travel and emergency medical care enroute) and of his personal effects

(limited to 75 pounds) shall be provided at no expense to the worker. The Government of the United States shall make every effort to assure safe passage for the workers travelling to and from the United States.

B. WAGES AND EMPLOYMENT

1. Wages, normal or overtime, paid to Costa Rica workers under this agreement shall be the same as, and in no case less than, those paid by the employer for similar work to domestic workers in the same occupation at the same place of employment. Wages, whether paid on an hourly, piece work, or other basis, shall be not less than forty cents per hour.

2. Each worker shall be employed exclusively in industries and services essential to the preservation, marketing, or distribution of agricultural products, including the timber and lumber industries, but if at the termination of the employment transportation for the return of the worker to Costa Rica should not be available and it would then be impossible to continue the workers' employment in industries contemplated by this agreement, the worker may be temporarily employed during such period as he may have to wait for return transportation in such other industries or services as the Chairman of the War Manpower Commission or his authorized representative may determine.

3. Wages shall be paid in full with no deductions except (a) those required by law of domestic workers engaged in the same occupations at the same place of employment by the same employer, or (b) those for which provision may be made in the written contract required by Clause II A-1 of this agreement; provided that the withholding under the income tax law in anticipation of the worker's liability thereunder and not as an extinguishment thereof shall be limited to 10% of the worker's gross earnings.

4. No workers under 18 years of age shall be employed under this agreement.

5. Workers shall not be required to purchase goods or services for their personal consumption or use at any source not of their choice; provided that the workers shall not be required to purchase articles or services, including tools, not required of domestic workers of the same employer at the same place of employment; provided, further, that, when necessary, the employer shall make available to the worker, at a reasonable cost, sufficient warm clothing to meet climatic conditions in the United States, and the costs of such clothing may be deducted from the subsequent earnings of the workers.

6. Living conditions and sanitary and medical services for Costa Rica workers shall be of the same kinds as, and shall not be less favorable to them than, those enjoyed by domestic workers engaged by the employer in the same occupations at the same place of employment. Housing shall be sanitary and provide reasonable comfort for the workers. Food, when furnished to the worker by the employer, shall be prepared in a sanitary manner and shall be of the same standard as the food furnished domestic labor. The cost of

food and housing, when furnished by the employer, shall not exceed \$1.40 per day per worker.

7. Workers admitted under this agreement shall enjoy as regards occupational diseases and accidents the same guarantee enjoyed by domestic workers engaged in the same occupations at the same place of employment under Federal or State Legislation in the United States.

8. Workers admitted under this agreement shall be afforded opportunity to be employed the same number of working hours as domestic workers engaged by the employer in the same occupations at the same place of employment; provided that Costa Rica workers shall not be required to work on December 25, Thursday and Friday of Holy Week, and Corpus Christi Day; provided further, that the Costa Rica workers shall be granted one day of rest in each seven, except during periods of emergency when all workers are required to work without a day of rest.

9. Workers admitted under this agreement shall be subject to the same rights and privileges with respect to promotions and general wage increases, and the same rights and privileges arising under applicable collective bargaining agreements as those accorded domestic workers engaged by the employer in the same occupations at the same place of employment.

10. (1) Subject to the provisions of paragraph (2) of this clause, workers shall be recruited for employment for a period of 180 days which may be extended with the approval of the Chairman of the War Manpower Commission or his authorized representative as provided herein. The initial engagement between the worker and his first employer shall be for a period of not less than 90 days and during such period of employment, the worker shall be afforded an opportunity to work not less than 480 hours, but hours worked on Sundays or in excess of 10 hours in any 24 hour period shall not be included in this 480 hour guarantee. On the termination of this initial engagement, the period of employment may be renewed or extended by mutual agreement of the worker and the employer subject to the approval of the Chairman of the War Manpower Commission or his authorized representative; provided that such renewal or extension shall be made on terms no less favorable to the worker than those required by this agreement.

(2) Where the initial engagement of the worker is not renewed or extended and at the termination of such initial engagement, there is not available work with a new employer on terms no less favorable to the worker than those required by this agreement, then the worker shall be returned to Costa Rica by the Government of the United States.

11. Every employment contract to which a worker admitted under this agreement is a party shall contain provision for the deduction from his wages of fifty cents a day for each day for which he received in wages a sum of not less than three dollars. The sums so deducted shall be remitted to the National Bank of Costa Rica for the credit of the worker upon his return to Costa Rica.

The sums so deducted shall be remitted at such times and in such manner as may be agreed upon between the Government of Costa Rica and the Chairman of the War Manpower Commission.

12. Workers shall have the right to discuss any problems of living or working conditions with their employers in accordance with procedures to be established by the employer. This shall not prevent the worker from using any appeals procedure which may be established by the War Manpower Commission.

13. At the expiration of the contract or any renewals thereof, the authorities of the United States shall consider the continued stay of the worker in the territory of the United States to be illegal from an immigration point of view, with the exception of cases of physical impossibility of the worker to return to Costa Rica and in that event only as long as such impossibility exists.

14. The Government of the United States, acting through the Chairman of the War Manpower Commission or his authorized representative, shall use its best efforts to return the workers to Costa Rica promptly upon expiration of the contracts or any renewal thereof. In the event that exigencies of the war create delays in the return of the workers, the Government of the United States acting through the Chairman of the War Manpower Commission or his authorized representative shall use its best efforts to continue the employment of the worker as provided in Section III, B, 2 of this agreement for such period as may be necessary until transportation facilities are available, but in no case longer than 6 months after the termination of the present hostilities.

IN WITNESS WHEREOF, we sign the present agreement in two originals, one in English for the Government of the United States of America and the other in Spanish for the Government of Costa Rica, in the city of San José, Costa Rica, this 20th day of May, 1944.

For the Government of
Costa Rica

HERNÁN BEJARANO R
*Under Secretary of State for Labor
and Social Welfare*

For the War Manpower
Commission

HIRAM S. PHILLIPS
Representative of the Chairman

Approved

TEODORO PICADO
President of the Republic